

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year)

19 NOV 2008

Applicant's or agent's file reference
DUC-004PC

FOR FURTHER ACTION

See paragraph 2 below

International application No.
PCT/US 07/00272

International filing date (day/month/year)
05 January 2007 (05.01.2007)

Priority date (day/month/year)
06 January 2006 (06.01.2006)

International Patent Classification (IPC) or both national classification and IPC
IPC(B) - H04K 1/00 (2008.04)
USPC - 705/59

Applicant **BLACK DUCK SOFTWARE, INC.**

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US
Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450, Alexandria, Virginia 22313-1450
Facsimile No. 571-273-3201

Date of completion of this opinion

06 November 2008 (06.11.2008)

Authorized officer:

Lee W. Young

PCT Helpdesk: 571-272-4300
PCT OSP: 571-272-7774

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International application No. .

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Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed.
☐ a translation of the international application into _____ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. ☐ This opinion has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed
☐ filed together with the international application in electronic form
☐ furnished subsequently to this Authority for the purposes of search

4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	None	YES
	Claims	1-33	NO
Inventive step (IS)	Claims	None	YES
	Claims	1-33	NO
Industrial applicability (IA)	Claims	1-33	YES
	Claims	None	NO

2. Citations and explanations:

Claims 1-33 lack novelty under PCT Article 33(2) as being anticipated by US 2005/0015343 A1 to Nagai et al. (hereinafter "Nagai").

Regarding claim 1, Nagai discloses a method for verifying protectable content, the method comprising: verifying a license for a first component of the protectable content (Abstract); verifying a license for a second component of the protectable content (para [0027]); and verifying a license for the protectable content based at least in part on the verification of the license for the first component and the verification of the license for the second component (Fig 21 and para [0182]).

Regarding claim 2, Nagai discloses the method of claim 1, wherein the verification of the license for the first component comprises determining the identity of the first component, determining stated information for the first component, and comparing the stated information against a stored profile associated with the identity of the first component (para [0198]).

Regarding claim 3, Nagai discloses the method of claim 2, wherein the stated information comprises a stated origin of the first component, and the stored profile identifies an origin of the first component (para [0083]).

Regarding claim 4, Nagai discloses the method of claim 2, wherein the stated information comprises license terms for the first component, and the stored profile comprises license terms for the first component (Abstract and para [0161]).

Regarding claim 5, Nagai discloses the method of claim 4, wherein the profile comprises a list of the elements of the protectable content (para [0124]).

Regarding claim 6, Nagai discloses the method of claim 5, wherein the list is hierarchical (para [0137]).

Regarding claim 7, Nagai discloses the method of claim 5, wherein the list includes the elements of the first component and the second component (para [0102]).

Regarding claim 8, Nagai discloses the method of claim 1, wherein the verification of the license for the second component comprises determining the identity of the second component, determining stated information for the second component, and comparing the stated information against a stored profile associated with the identity of the second component (para [0205]).

Regarding claim 9, Nagai discloses the method of claim 8, wherein the stated information comprises an origin of the second component, and the stored profile comprises an origin of the second component (Fig 1 and para [0207]).

Regarding claim 10, Nagai discloses the method of claim 8, wherein the stated information comprises license terms for the second component, and the stored profile comprises license terms for the second component (Fig 1 and para [0207]).

Regarding claim 11, Nagai discloses the method of claim 1 further comprising decomposing the protectable content into the first and second components (para [0200], [0201]).

Regarding claim 12, Nagai discloses the method of claim 1 further comprising digitally signing the protectable content after the license for the first component is verified to be valid and the license for the second component is verified to be valid (para [0143]).

Regarding claim 13, Nagai discloses the method of claim 1 further comprising digitally signing the protectable content after the license for the first component is verified to be valid, the license for the second component is verified to be valid, and the license for the protectable content is verified to be valid (para [0098], [0143]).

Regarding claim 14, Nagai discloses the method of claim 1, wherein the license for the protectable content comprises the license for the first component and the license for the second component (para [0096], [0102]).

Regarding claim 15, Nagai discloses the method of claim 1, wherein the license for the protectable content comprises the union of the most restrictive aspects of the license for the first component and the most restrictive aspects of the license for the second component (para [0084]).

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:
Box V.2 Citations and Explanations:

Regarding claim 16, Nagai discloses the method of claim 1, wherein the protectable content comprises one or more of a source code file, an object code file, a multimedia presentation, a video segment, an audio segment, a textual representation, a work of art, a visual representation, a technological know-how, a business know-how, and a contract right (para [0002]).

Regarding claim 17, Nagai discloses a method for verifying protectable content, the method comprising: receiving a profile for the protectable content, the profile comprising a list of the components of the protectable content (para [0026]); verifying a license for a first of the components of the protectable content using information in the profile (para [0027]); verifying a license for a second of the components of the protectable content using information in the profile (para [0028]); and verifying a license for the protectable content based at least in part on the verification of the license for the first component and the verification of the license for the second component (para [0081]).

Regarding claim 18, Nagai discloses the method of claim 15, wherein the profile comprises references to profiles for the components of the protectable content (para [0088]).

Regarding claim 19, Nagai discloses a method for verifying protectable content, the method comprising: verifying a first component of the protectable content (para [0088]); verifying a second component of the protectable content (Fig 2 and para [0089]); and verifying the protectable content based at least in part on the verification of the first component and the second component (para [0027]).

Regarding claim 20, Nagai discloses the method of claim 19, wherein the verification of the components comprises determining the identity of each component, determining stated information for each component, and comparing the stated information against a stored profile associated with the identity of each component (para [0088]).

Regarding claim 21, Nagai discloses the method of claim 20, wherein the stated information for each of the components comprises a stated origin of such component, and the stored profile identifies an origin of such component (para [0088]).

Regarding claim 22, Nagai discloses the method of claim 20, wherein the stated information comprises license terms for the component, and the stored profile comprises license terms for the component (Fig 21 and para [0182]).

Regarding claim 23, Nagai discloses the method of claim 22, wherein the stored profile comprises a list of the elements of the protectable content (para [0124]).

Regarding claim 24, Nagai discloses the method of claim 23, wherein the list is hierarchical (para [0137]).

Regarding claim 25, Nagai discloses the method of claim 23, wherein the list comprises elements of the first component and the second component (para [0124]).

Regarding claim 26, Nagai discloses the method of claim 25, wherein the components each comprise computer source code (para [0109]).

Regarding claim 27, Nagai discloses the method of claim 19 further comprising digitally signing the first component after the first component is verified and digitally signing the second component after the second component is verified (para [0143]).

Regarding claim 28, Nagai discloses the method of claim 19 further comprising digitally signing the entire protectable content after the first component is verified, the second component is verified, and the protectable content is verified (para [0098], [0143]).

Regarding claim 29, Nagai discloses the method of claim 19 further comprising verifying the digital signature of the protectable content after the first component is verified and the second component is verified (para [0143]).

Regarding claim 30, Nagai discloses the method of claim 19 further comprising verifying the digital signature of the protectable content by verifying a digital signature on a first component and verifying a digital signature on second component of the protectable content (para [0112], [0143]).

Regarding claim 31, Nagai discloses a computer readable medium comprising a data structure for use in verifying protectable content, the protectable content comprising computer source code, the data structure comprising a hierarchical list of elements of protectable content, the list comprising for each component of the protectable content an identification of such component of the protectable content, a list of the elements of such component of protectable content, stated information for such component of protectable content, and a digital signature of the component of the protectable content. (para [0137]).

Regarding claim 32, Nagai discloses the data structure of claim 1, wherein the stated information comprises license terms for the component (Abstract and para [0161]).

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:
Citations and Explanations:

Regarding claim 33, Nagai discloses a method comprising: receiving a request to verify a license of an aggregated content, the aggregated content being based, at least in part, on a plurality of protectable-content elements (para [0015]); verifying a license associated with a first one of the plurality of protectable-content elements (Abstract); verifying a license associated with a second one of the plurality of protectable-content elements (para [0027]); comparing license attribute values associated with the license of the first protectable-content element with corresponding license attribute values associated with the license of the second protectable-content element (para [0206]); and based, at least in part on the comparison, verifying the license of the aggregated content (para [0015]).

Claims 1-33 have industrial applicability as defined by PCT Article 33(4) because the subject matter can be made or used in Industry.